

How Special Rules Regulate Calling up Measures for Consideration in the House

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A special rule is a House resolution that regulates consideration of a specific legislative measure named in the resolution. Members and staff commonly refer to a resolution of this kind simply as “the rule” for considering a measure. A rule has two key functions: (1) to enable the House to consider the measure specified, and (2) to set terms for considering it. The House Committee on Rules has jurisdiction to report resolutions that combine these two functions, and this ability enables the leadership to use rules effectively to manage the floor agenda. This report discusses how rules accomplish the first function; on the second, see CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by Megan Suzanne Lynch. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Special Rules and the System of Privilege

In general, the House may bring to the floor for consideration only measures that have “privilege.” Privilege, in this context, means this right of a measure to be considered. The general Rules of the House establish several different means for bills and resolutions to obtain privilege. One way, commonly used for major legislation, is for the House to adopt a resolution making it in order to consider the measure. Such a resolution, conferring privilege on a specified measure and regulating its consideration, is called a “special rule” because the regulations it prescribes supersede the general rules, but only in application to the measure named.

Special rules can be used in this way only because they are themselves measures to which House Rules automatically accord privilege. By according this general privilege to special rules, the House ensures that it will be able to take them up and adopt them. By exercising this ability to adopt special rules, in turn, the House is able to accord privilege to specific measures it wishes to consider.

Special Rules, Privilege, and Forms of Consideration

General Rules of the House establish several different forms of procedure for considering measures. In general, each means of conferring privilege makes measures privileged for consideration under a specified procedure. Most special rules make a measure privileged for consideration in Committee of the Whole. Typical language in which a rule grants privilege for consideration in Committee of the Whole is “at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill [number and official title].”

Alternatively, a rule may provide that a measure be considered in the House under the one-hour rule, or under another procedure. (Even for authorization and appropriation bills, for which House Rules require consideration in Committee of the Whole, the special rule may override this requirement.) Typical language conferring privilege for consideration in the House is “upon adoption of this resolution it shall be in order to consider in the House the bill [number and official title].”

A relatively few measures are automatically accorded privileged status by the general Rules of the House. To enable itself to consider such a measure, the House does not need to adopt a rule, but in current practice it often does so anyway. For example, the House may adopt a rule providing that a general appropriation bill be considered in Committee of the Whole, or that a conference report be considered in the House, even though House Rules already make any such measure privileged for consideration under those procedures. The reason for using a rule in these cases may be to waive points of order, or otherwise alter the terms of consideration from those

established by House Rules (the second key function of special rules). This kind of rule usually retains the language granting privilege, even though the measure needs no such grant.

Using Rules to Manage the Agenda

When the majority leadership wishes to schedule a measure for consideration, especially major legislation, it often determines that a rule is the most appropriate means of conferring privilege. To get privilege conferred in this way, the leadership requires cooperation from the Committee on Rules, for that is the committee that possesses jurisdiction to report special rules. When this cooperation exists, as it normally does in contemporary practice, it enables the leadership to exercise great flexibility in scheduling.

This function is a principal reason for the importance of the Committee on Rules, because it puts the Committee in the position of gatekeeper to the floor for many measures. Rules reported by the Committee on Rules are privileged for consideration in the House under the one-hour rule. This procedure permits the House to preclude the offering of any floor amendments by ordering the previous question. As a result, when the Committee reports a rule that both grants privilege and regulates terms of consideration, it normally limits the House to the choice of considering a measure under the terms proposed, or not being able to consider it at all.

Because a special rule is a House resolution, it takes effect only when adopted by the House. In order to accord privilege to the measures selected, therefore, the leadership and the Committee on Rules need the support of a voting majority on the floor. The leadership therefore can regulate the floor agenda effectively through rules when it can count on the support of the majority party for their adoption, and when the Committee on Rules can structure them in a way that attracts majority support.

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